

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**JOHN E. JOHNSON**

**PETITIONER**

**VERSUS**

**CIVIL ACTION NO. 1:13-cv-39-HSO-RHW**

**DWAIN BREWER**

**RESPONDENT**

**ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED FINDINGS OF  
FACT AND RECOMMENDATION, DENYING PETITION FOR WRIT OF  
HABEAS CORPUS, AND DISMISSING CASE WITH PREJUDICE**

This matter comes before the Court on the Proposed Findings of Fact and Recommendation [10] of United States Magistrate Judge Robert H. Walker, entered in this case on September 25, 2013. The Magistrate Judge reviewed Petitioner John E. Johnson's Petition for Writ of Habeas Corpus [1] filed pursuant to 28 U.S.C. § 2254 and recommended that the Petition should be denied. Proposed Findings of Fact and Recommendation [10], at p. 8. The Magistrate Judge recommended that Petitioner's Petition for Writ of Habeas Corpus [1] be denied as procedurally barred.

*Id.*

The Proposed Findings of Fact and Recommendation [10] were mailed to Petitioner on September 25, 2013, via certified mail return receipt requested. An acknowledgment of receipt [11], while not dated, was received by the Clerk of Court and filed into the record on September 27, 2013. Any objection to the Magistrate Judge's Proposed Findings of Fact and Recommendation [10] was due within fourteen (14) days of service. L.U. Civ. R. 72(a)(3). To date, Petitioner has not filed any objection to the Magistrate Judge's Proposed Findings of Fact and

Recommendation [10].

Where no party has objected to the Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of it. 28 U.S.C. § 636(b)(1) ("a judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made"). In such cases, the Court applies the "clearly erroneous, abuse of discretion and contrary to law" standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review, the Court concludes that the Magistrate Judge's findings are not clearly erroneous, nor are they an abuse of discretion or contrary to law. For the foregoing reasons, the Court will adopt the Magistrate Judge's Proposed Findings of Fact and Recommendation [10] as the opinion of this Court. Petitioner John E. Johnson's Petition for Writ of Habeas Corpus [1] filed pursuant to 28 U.S.C. § 2254 should be denied, and this civil action will be dismissed with prejudice.

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that, the Proposed Findings of Fact and Recommendation [10] of Magistrate Judge Robert H. Walker, entered on September 25, 2013, is adopted in its entirety as the finding of this Court.

**IT IS, FURTHER, ORDERED AND ADJUDGED** that, Petitioner John E. Johnson's Petition for Writ of Habeas Corpus [1], filed pursuant to 28 U.S.C. § 2254, is **DENIED**, and this civil action is **DISMISSED WITH PREJUDICE**. A separate

judgment in accordance with this Order will be entered, as required by Federal Rule of Civil Procedure 58.

**SO ORDERED AND ADJUDGED**, this the 22<sup>nd</sup> day of October, 2013.

*s/ Halil Suleyman Ozerdem*

HALIL SULEYMAN OZERDEN  
UNITED STATES DISTRICT JUDGE